



ORAL JUDGEMENT (Per C.K. Thakker, J.):

1. This appeal is filed against the judgment and order passed by the learned single Judge on April 21, 1982 in Special Civil Application No. 2758 of 1981. In the said petition the petitioners (present respondents) had challenged legality and validity of the order of supersession of the Managing Committee of the petitioner society, passed by the District Registrar, Bhavnagar under section 81 (1) of the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as the 'said Act').

2. The case of the petitioner Union was that though the Managing Committee was acting in accordance with law, the District Registrar, in purported exercise of powers under Section 81 of the said Act, issued notice for supersession of the Managing Committee of the petitioner society. That notice was issued on 4.6.1981 proposing action under Section 81 of the Act.

3. The contention of the petitioner was that the statute provided a period of 15 days for explanation by the petitioner from the date of service of notice. It was averred in the petition that though some of the members received the notice belatedly, without giving 15 clear days' time, order under Section 81 was passed by the Registrar on July 20, 1981. Thus, it was not in consonance with the provisions of the Act.

4. The learned single Judge upheld the contention and observed that the order passed by the District Registrar was not in consonance with the law and was in violation of principles of natural justice and fair play. Accordingly, the order was set aside and the respondents (present appellants) were directed to comply with the directions issued in the judgment "within one week from the receipt of writ of this Court at their end."

5. The learned single Judge, however, made the following observations:

"It is made clear that it will be open to the respondents to proceed further in the light of the impugned show cause notice at Annexure 'C' dated 4.6.1981 and the respondents, especially respondent No.1 will be entitled to decide the question about supersession of the managing committee of petitioner No.1 society as provided by Section 81 (1) after issuing intimation regarding fresh date of hearing and after giving

hearing to the petitioners. The first respondent will be entitled to reconsider the entire question on merits afresh and to come to his own decision in accordance with law and in consonance with basic principles of natural justice and fair play. Subject to the above clarification the rule issued in the petition is made absolute with costs."

6. Being aggrieved by the judgment and order passed by the learned single Judge, the above Letters Patent Appeal was filed. From the record it appears that LPA was placed before the Vacation Judge for admission during summer vacation and on 28.5.1982 the following order was passed:

"Notice pending admission returnable on 21.6.1982. Interim relief refused on the ground that petitioner in the first place has not raised the contentions which are now being raised, and in the second place they failed to carry out the orders of the Court. Further the petitioners, if they were keen upon getting the interim relief would have challenged the learned single Judge's order earlier. This seems to be counter to the contempt petition or on apprehension of contempt petition."

7. Thereafter the matter was placed for admission before the Division Bench and on July 27, 1982 the appeal was admitted. Today the appeal is called out for final hearing.

8. Mr. S.K. Bukhari, learned A.G.P., contended that the learned Single Judge has committed an error of law in holding that 15 clear days were required after the notice was served upon the members of the Managing Committee. According to him, 15 days' time was required to be given under the Act from the date of issuance of notice.

9. Mr. Vakharia, on the other hand, supported the judgment and order of the learned Single Judge and submitted that there was no error of law committed by the learned Single Judge and the learned Single Judge has properly interpreted the provisions of law and the order cannot be said to be illegal.

10. In the facts and circumstances of the case, in our opinion, it is not necessary to enter into larger question in view of the fact that the notice was issued

in 1981 and the order was also passed in that year. Certain directions were issued by the learned Single Judge in April 1982 and being aggrieved by the said directions, LPA was filed. From the order extracted hereinabove, however, it is clear that though notice was issued by the Vacation Judge interim relief was refused. In these circumstances, the matter has become more or less academic in nature as more than sixteen years have passed. It is settled law that academic questions are normally not decided by Courts. It is also clear that while disposing the petition, the learned single Judge has issued certain directions to the authorities permitting them to take appropriate action in accordance with law after affording opportunity to the petitioners.

11. For the foregoing reasons, we do not think it proper to interfere with the order passed by the learned Single Judge after such a long period. Letters Patent Appeal is accordingly disposed of. In the facts and circumstances, there shall be no order as to costs.

12. Liberty to apply in case of difficulty.

--